**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 204 OF 2005**

Merloni Termo Sanitari (I) Ltd. ...Petitioner

Versus

Pune Employees Union & Anr. ...Respondents

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Mr. K.K. Singhavi with K.S. Bapat, counsel for Petitioner

Mr. Madan Phadnis, senior counsel with L.T. Satelkar, counsel for Respondent No.1.

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**CORAM: B. H. MARLAPALLE, J.**

**DATED: 16TH MARCH, 2005**

**P. C.:-**

1. Heard Mr. Singhavi the learned senior counsel with Mr. Bapat the learned counsel for the petitioner and Mr. Phadnis, senior counsel, with Mr. Satelkar, the learned counsel for the respondent Union.

2. Rule. Rule returnable forthwith. Mr. Phadnis waives service for respondent Union. By consent taken up for final hearing.

3. Further to the order dated 27.1.2005, the Investigating Officer, Industrial Court at Pune has submitted his report. The said report indicates that the following seven machines are lying in dismantled

condition in the factory premises as at present:-

1. 60 Tones Hydraulic Press machine
2. 60 Tones Mechanical Press
3. Outer Bidding machine
4. Spot Welding machine
5. Rolling machine
6. Knotting press machine
7. Sheet shearing machine.

4. The report further states that six workers viz. (1) Shri. Pramod R. Patil, (2) Shri. Rahul N. Kharade, (3) Shri. Upamanyu V. Taskar, (4) Shri. Satish D. Sanap, (5) Shri. Vijay V. Kolhe and (6) Shri. Hanumant Waman Yeole, who were working on these seven machines have been allotted an alternative work on Hydro Press Machine. It is also reported that the emoluments of these six workers have not been affected in any way. Mr. Phadnis, states that an MOU has been signed between the parties on 22.1.2005 and one of the terms agreed upon between the parties is that of shifting of 13 machines for which the Union has given no objection.

5. The petitioner management has assured that on account of shifting of these seven machines, the

workers who were employed on these machines would not be declared surplus and in fact they have been gainfully employed as has been reported by the Investigating Officer.

6. Hence, this petition succeeds and the petitioner is at liberty to shift the above mentioned seven machines out of its factory premises. The impugned order passed by the Industrial Court is hereby set aside.

7. Rule made absolute accordingly with no order as to costs.